THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION No.2176 of 1995

DATED: 02-03-2006

Between:

T.Venkataratnam . . .Petitioner

And

The MRO, Korukonda . . .Respondent

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION No.2176 of 1995

O R D E R:

The present writ petition filed by the petitioner is misconceived and is nothing but an abuse of process of law.

The petitioner, who claims to be a legatee under a Will executed by Venkat Rao, dated 10-05-1974, bequeathing the properties, filed this petition questioning the surrender proceedings in LCC.No.1832/RJY/75, dated 20-12-1987, issued by the Land Reforms Tribunal, Kakinada.

The petitioner contends that the declarant is only a limited owner and as the property reverted to the vested remainder holder subject to any liability created by the life estate holder, the said proceedings are not binding on him.

In the counter-affidavit filed by the respondents, it is stated that in the year 1974, the lands were recorded in the name of
Smt. Laxmi Satyavathi, wife of Venkat Rao and she filed a declaration along with her minor children under Section 8 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act (for short "the Act") before the Land Reforms Tribunal, Kakinada. Thereupon, the Tribunal passed orders under Section 9 of the Act on 05-02-1981, wherein the declarants surplus holding was determined as 0.6207

standard holding. Later, the declarant filed an application under Section 10(3) of the Act to surrender the lands and accordingly, the Land Reforms Tribunal passed orders vide LCC.No.1832/RJY/75, dated 20-12-1987, accepting for such surrender. The Additional Revenue Divisional Officer (Land Reforms), Kakinada, through letter, dated 10-11-1987, called for a sub-division record for the extents of the land surrendered. Thereafter, the Additional Revenue Divisional Officer issued Form No.8 notice, dated 21-12-1987, informing that the Land Reforms Tribunal has temporarily accepted for such surrender and called for objections. After following the said procedure, the Additional Revenue Divisional Officer (Land Reforms), Kakinada, issued orders under Section 10(3) of the Act in L.C.C.No.1832/RJY/75, dated 20-12-1987, for the extents mentioned. The Sub-Collector, Rajahmundry, issued orders in Form No.IX, dated 04-01-1988, authorizing the Mandal Revenue Inspector, Kakinada, to take possession of the said lands. Accordingly, he took possession of the lands on 25-01-1988. After the proceedings issued under the Act had become final in respect of the land in Survey Nos.172, 66/1, 66/4, 76 and 63/1, and after the Government took possession of same, the above writ petition came to be filed.

On 09-02-1995, this Court admitted the writ petition and issued interim direction. Suffice it to say that the rights of the parties have to be decided either by a competent Civil Court or a Tribunal constituted under the Act.

It is not in dispute that the petitioner though claiming rights over the entire extent of the lands, which were the subject matter of surrender, has not chosen to file any declaration of which he is under an obligation under Section 8 of the Act, nor moved the Tribunal when the notification was issued accepting the surrender proceedings etc. It is for him to establish that such transfer under the Will has not been effected in anticipation of, and with a view to avoiding or defeating the object of any law relating to a reduction in the ceiling on agricultural holdings as contemplated under Section 7 of the Act. It is curious to note that the declarant if was a limited owner (life estate holder) under the Will, she has no right to claim for exclusion of above lands from her holding. When petitioner claims properties as vested remainder, admittedly Testator late Venkat Rao left behind his wife, a son and a daughter, who are minors on the date of Will i.e. 10-05-1974. As the declaration was filed by the fourth respondent on her behalf and on behalf of her minor children, the rights of succession under the Will cannot be decided in

proceedings under Article 226, and it is the exclusive jurisdiction of Civil Court to decide the said contentious issues in a properly constituted civil suit.

In view of the same, I am of the opinion that the petitioner is not entitled to any relief and invoking extraordinary jurisdiction of this Court by him is nothing but an abuse of process of law.

The writ petition is accordingly dismissed with costs of Rs.5,000/- (Rupees Five Thousand only) to be payable to the High Court Legal Services Authority, Andhra Pradesh, Hyderabad, within a period of two months from the date of receipt of a copy of this order. If the costs are not paid within the period, it is open for the High Court Legal Services Authority to execute the same in the manner provided for such execution.

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(A.GOPAL REDDY, J)

2nd MARCH, 2006.

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